



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,350	04/29/2004	Paul F. Lewis	JD-292	3349

24804 7590 02/24/2005

S.C. JOHNSON COMMERCIAL MARKETS INC
8310 16TH STREET, M/S 510
PO BOX 902
STURTEVANT, WI 53177-0902

EXAMINER

PETRUNCIO, JOHN M

ART UNIT	PAPER NUMBER
----------	--------------

1751

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/709,350

Applicant(s)

LEWIS ET AL.

Examiner

John M Petruncio

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 09 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Response to Arguments

Claims 1-25 have been rejected under 35 USC 112, first paragraph, because the specification, while being enabling for "concrete", does not reasonably provide enablement for a "soiled porous surface".

1. Applicant's arguments in reply to the rejection under 35 USA 112 re scope of enablement and in support of the amendments to the claims filed December 9, 2004 in response to the outstanding Office Action have been fully considered but they are not persuasive.

As to the rejection under 112, the subject specification discloses the admittedly prior art use of an alkaline cleaner [0010] to maintain concrete surfaces and the use of a commercial cleaner disclosed as "3N1 Floor Cleaner concentrate from 3M Corp" is further cited as suitable for use as a subject maintainer composition [0040] for a "floor surface" or "porous surface", the only specification disclosure and/or example given for such surface being a concrete surface. Applicant's arguments do not stand as a surrogate for evidence that a subject porous surface can be construed as, for example, a wood surface. The rejection is maintained.

2. Claims 1-25 are rejected under 35 USC 103(a) as being unpatentable over US Pat. 5,656,683 to Ruggiero et al further in view of US 2002/0065355 to Terasse et al.

Applicant's have amended the claims to require removing excess maintainer composition from the surface. However, the term "excess" is relative and nowhere defined in the specification and applicant's argue that "at no time is the maintainer composition allowed to form a dried film on the surface... ". However, the specification discloses that ... "any excess maintainer is then rinsed and removed from the surface.. then allowed to dry [0015] Furthermore, it is noted that that " a maintainer composition is applied to the surface 2 and creates a uniform film 8 as seen in Figure 4" [0030] and that the maintainer composition can include "pore-filling components" such as waxes, resins or polymers [0038] which are construed by the Examiner as consistent with allowing for a residual "uniform film 8" as described by instant Fig 4. Essentially, it is held that Applicants' arguments are inconsistent with the instant specification's disclosure; no patentable distinction is seen over the prior art. The outstanding rejections are maintained.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 1751

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Petruncio whose telephone number is 571-272-1323. The examiner can normally be reached on 10:30Am-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yogendra Gupta can be reached on 571-272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

John M. Petruncio
February 22, 2005

MICHAEL BARR
SUPERVISORY PATENT EXAMINER

A handwritten signature in black ink, appearing to read "Michael Barr", with a long horizontal flourish underneath.

